


No. 4:17-CR-35-FL-1

ORDER

The court hereby permits defendant to file a response to the court's proposed

recharacterization within **21 days** from the date of this order. The court advises defendant that if, within the time set by the court, he agrees to have the motion recharacterized or does not respond in opposition to the recharacterization, the court shall consider the motion as one under § 2255 and shall consider it filed as of the date the original motion was filed. If, however, defendant responds within the time set by the court but does not agree to have the motion recharacterized, the court will not treat it as a § 2255 motion and will dispose of the motion in accordance with the applicable procedural and jurisdictional rules of law governing criminal case matters.¹

SO ORDERED, this the 27th day of June, 2019.



LOUISE W. FLANAGAN
United States District Judge

¹ The court notes that under applicable procedural rules, this court has limited jurisdiction to correct a presentence report. See Fed. R. Civ. P. 35 & 36; see, e.g., United States v. Vanderhorst, ___ F.3d ___, No. 18-6225, 2019 WL 2588541, at *2 (4th Cir. June 25, 2019) (contrasting a district court’s jurisdiction to correct what is “purely a clerical error in a judgment, order, or other part of the record —like . . . scrivener’s or recording errors” with “judicial and substantive errors”).